

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:14-CR-00175 AGF (DDN)
)	
MARK PALMER <i>et. al</i> ,)	
)	
Defendant.)	

**DEFENDANTS' JOINT MOTION TO VACATE DEADLINE FOR FILING
ANY MOTION TO DISMISS INDICTMENT AND EXTEND DEADLINE AS NEEDED**

COME NOW Defendants, by and through their respective undersigned counsel, and hereby move the Court to vacate the September 1, 2015 deadline for filing any Motion to Dismiss the Indictment and to set a new date for the filing of any such motions after conducting the upcoming September 3, 2015 status conference. In support of their motion, Defendants state as follows:

1. The Court has set a deadline of September 1, 2015 for defendants to file any motion to dismiss the indictment. *See* Doc. 164. That Order stated that no further continuances of the deadline would be considered. Since the July 2, 2015 entry of that Order, however, there have been developments in this and the three related cases that cause undersigned counsel to present the instant motion to the Court.
2. During various status conferences held in this case and the related cases, the Court related its understanding that defendants may wish to consider any plea proposals in order to inform their individual decision as to whether to proceed to file any motion to dismiss.
3. Since the last status conference on June 11 and after defendants' receipt of the plea offers that were extended by the Government between June 15 and June 22 (*see* Doc. 162

at 4), there have been ongoing plea negotiations about a potential “global resolution” of these cases. Specifically, counsel for the lead defendants in each of the four indictments as well as attorneys representing Defendant Charles Wolfe have met with the Assistant U.S. Attorneys handling the case to discuss the plea offers that were extended by the Government. Subsequently, the same parties met with U.S. Attorney Richard Callahan to discuss potential modifications to the plea proposals that were received by defendants.

4. Defense counsel wish to be able to consider and discuss with their clients any amended plea proposals the Government may ultimately make before defendants are required to decide whether to proceed with the filing of any motions to dismiss.

5. Moreover, the Government remains in the process of producing discovery to Defendants. The June 25, 2015 status report filed by the Government related that as of that date, the next batch of discovery (the eighth) was still being processed for production by a company in South Carolina, and no production date is anticipated. *See* Doc. 162 at 2. That batch is still forthcoming and has yet to be received by Defendants.

6. The undersigned are cognizant that the Court is reluctant to extend the deadline for filing any Motions to Dismiss. However, in light of the foregoing circumstances, the undersigned respectfully submit that an extension of this date would serve the interests of justice and judicial economy by potentially obviating the need for unnecessary motion practice in the event some or all of the cases are resolved by plea agreement. Because the Court ordered that any motion to dismiss be filed jointly by all defendants in each of the four cases (*see* Doc. 150), requiring all counsel to coordinate on filing a motion that may prove to be unnecessary for some defendants would not be a prudent use of funds by either CJA or appointed counsel.

7. For any defendants that elect to exercise their right to file pretrial motions to dismiss, extending the motion deadline until after discovery production has been completed by

the Government will reduce the likelihood the Court would be asked to consider supplemental or amended motions based upon late-discovered information.

8. The Government does not oppose the extension of time requested by this motion.

9. The undersigned attorney, Jason Korner, sent email correspondence to all other defense counsel of record in this case inviting them to join in this motion and he continues to receive consent to show their clients as co-movants. To ensure the Court is given sufficient time to consider this motion, counsel is filing this motion before consents have been received from all counsel.

10. Defendants therefore respectfully request that the Court enter its Order vacating the September 1, 2015 filing deadline and after receiving an update from the parties during the status conference on September 3, 2015, consider setting a new deadline by which they may file any motion to dismiss.

WHEREFORE, for the foregoing reasons, Defendants jointly request that the Court grant their motion to vacate the September 1, 2015 deadline, extend the time in which they may file any motion to dismiss, and grant all such other and further relief this Court finds just and warranted under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 27th day of August, 2015, a true and correct copy of the foregoing was filed with the Court using the CM/ECF system, and service upon all participants in the case who are CM/ECF users will be accomplished by operation of that system.

/s/ Jason A. Korner